

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION**

Jeffery Dale Tolliver, #13-12613,	)	
	)	
Plaintiff,	)	Civil Action No. 1:16-cv-03889-JMC
	)	
v.	)	
	)	
Spartanburg County Detention Facility,	)	<b>ORDER</b>
	)	
Defendant.	)	
_____	)	

Jeffery Dale Tolliver (“Plaintiff”), proceeding pro se and in forma pauperis, brought this action pursuant to 42 U.S.C. § 1983 alleging that his present incarceration at Spartanburg County Detention Facility constitutes a violation of his constitutional rights. (ECF No. 1.)

This matter is before the court upon review of United States Magistrate Judge Shiva V. Hodges’ Report and Recommendation (“Report”), filed on February 22, 2017, recommending that this court dismiss this action with prejudice for failure to prosecute because Plaintiff failed to comply with an order issued by this court on February 2, 2017, directing Plaintiff to file an amended complaint on or before February 17, 2017, or face dismissal of his claim (ECF No. 15). (ECF No. 20.) The Report details the relevant facts and legal standards on this matter, and this court incorporates the Magistrate Judge’s recommendation herein without a recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court that has no presumptive weight—the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976).

The court reviews de novo only those portions of a Magistrate Judge’s Report to which specific objections are filed, and it reviews those portions not objected to—including those

portions to which only “general and conclusory” objections have been made—for clear error. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005); *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). The court may accept, reject, or modify—in whole or in part—the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report “within fourteen (14) days of the date of service” of the Report. (ECF No. 20.) However, Plaintiff filed no objections. In the absence of objections to the Magistrate Judge’s Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby*, 718 F.2d at 199. Furthermore, failure to timely file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

Therefore, after a thorough and careful review of the Report and the record in this case, this court finds the Report provides an accurate summary of the facts and law and **ACCEPTS** the Report and Recommendation (ECF No. 20). For the reasons articulated by the Magistrate Judge, this court **DISMISSES** this action *with* prejudice for failure to prosecute. Furthermore, this court **DENIES** Plaintiff’s Motion for Summary Judgment (ECF No. 12) as moot.

**IT IS SO ORDERED.**



United States District Judge

March 13, 2017  
Columbia, South Carolina